

Message Text

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63

ACTION ARA-20

INFO OCT-01 ISO-00 SS-20 NSC-10 CIEP-02 TRSE-00 EB-11

CIAE-00 INR-10 NSAE-00 RSC-01 PRS-01 COME-00 L-03

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R 252110Z OCT 73

FM AMEMBASSY LIMA

TO SECSTATE WASHDC 7535

C O N F I D E N T I A L LIMA 7830

E.O. 11652: GDS

TAGS: BDIS, EMIN, EIND, PE

SUBJ: CERRO DE PASCO

REF: LIMA 7687

1. LLOSA TOLD EMBASSY OFFICER ON OCTOBER 23 THAT, WITH PROBLEM SURROUNDING IRREVOCABLE LETTERS OF CREDIT (SEE PARA 3 REFTEL) RESOLVED, HE BELIEVED CERRO DE PASCO WOULD BE ABLE SURMOUNT CASH FLOW CRISIS. HOWEVER, HE SAID CERRRO WOULD REQUIRE LOAN FROM BANCO POPULAR WHICH HE HAD UNTIL THIS POINT BEEN RELUCTANT TO CONCLUDE OWING TO ONEROUS COLLATERAL REQUIREMENTS ON WHICH BANK INSISTS.

2. LLOSA SAID HE HAD BEEN VERY RELIEVED BY MURPHY DECISION TO RELENT WITH RESPECT TO LETTERS OF CREDIT. IF MURPHY HAD INSISTED ON RETAINING MONEY TO WHICH HE HAD NO RIGHT, CERRO AND MURPHY WOULD HAVE BEEN LIABLE FOR CRIMINAL CHARGES FOR WHAT WOULD HAVE AMOUNTED TO THEFT OF NEGOTIABLE COMMERCIAL PAPER. MOREOVER, THE ACT WOULD PROBABLY HAVE FALLEN WITHIN THE PURVIEW OF FOREIGN EXCHANGE LAW (DECREE LAW 18275) WHICH IMPOSES A FINE OF TEN TIMES THE AMOUNT OF THE SUM INVOLVED, PLUS POSSIBLE IMPRISONMENT OF ONE TO FIVE YEARS.

3. COMMENT: WE THINK IT IMPORTANT TO RECOGNIZE THAT, HAD MURPHY INSISTED ON RETAINING THE \$4.5 MILLION COVERED BY
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IRREVOCABLE LETTER OF CREDIT, GOP WOULD HAVE HAD GOOD CASE FOR

LEVYING FINE OF \$45 MILLION. IN ADDITION, OF COURSE, WITH CERRO PRESENTLY WITHHOLDING AN ADDITIONAL \$27 MILLION OR SO IN NEW YORK, GOP COULD SIMILARLY HAVE GROUNDS FOR REDUCING EVENTUAL COMPENSATION TO CERRO BY ANOTHER \$270 MILLION, FOR A TOTAL POTENTIAL PENALTY IN EXCESS OF \$300 MILLION, SUBSTANTIALLY MORE THAN CERRO'S MOST POSITIVE SELF-EVALUATION OF ITS ASSETS. ALTHOUGH LLOSA PREVIOUSLY DOUBTED MULTIPLE PENALTY PROVISIONS WOULD BE INVOKED (SEE LIMA 7353 OF OCTOBER 4), SHOULD HE BE WRONG, USG WOULD INDEED BE IN POOR POSITION TO PROTEST THAT COMPENSATION HAD BEEN INADEQUATE IN FACE OF CLEAR VIOLATION BY CERRO OF PERUVIAN LAW.

BELCHER

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